

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2558

SPONSOR: Agriculture Committee and Senator Hill

SUBJECT: Worker Safety/Agricultural Pesticides

DATE: April 22, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Fav/CS</u>
2.	<u> </u>	<u> </u>	<u>HC</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>JU</u>	<u> </u>
4.	<u> </u>	<u> </u>	<u>AGG</u>	<u> </u>
5.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

This bill creates the “Florida Agricultural Worker Safety Act” to ensure that agricultural workers employed in the state be given information about pesticide applications in the workplace. It requires the Department of Agriculture and Consumer Services (department) to administer the act. It also requires the department to continue to operate under the regulations established by the United States Environmental Protection Agency’s Labeling Requirement for Pesticides and Devices and the Worker Protection Standards.

The bill requires agricultural employers to make certain information on pesticides available to an agricultural worker within 2 working days of a request by the worker, a designated representative of the worker, or any medical personnel treating the worker. It also makes it unlawful for an agricultural employer to fail to provide required pesticide information or to take any retaliatory action against any agricultural worker exercising his or her rights under the federal Worker Protection Standards. The bill provides for penalties against agricultural employers who violate the provisions of the act, requires the department to monitor complaints of retaliation against workers, and report such findings to the Legislature on October 1, 2006.

This bill creates sections 487.2011, 487.2021, 487.2031, 487.2041, 487.2051, 487.2061, and 487.2071 of the Florida Statutes.

II. Present Situation:

Federal Laws Related to the Use of Pesticides and Farm Workers

In August 1992, the federal Environmental Protection Agency (EPA) promulgated the Worker Protection Standards for Agricultural Pesticides (WPS). The purpose of these standards is to reduce the risks of illness or injury resulting from worker’ and handlers’ occupational exposures

to pesticides used in the production of agricultural plants on farms or in nurseries, greenhouses and forests and also from accidental exposure of workers and other persons to pesticides. The standards also require workplace practices designed to reduce or eliminate exposures to pesticides and to exposure-related emergencies.

The federal WPS requires employers to adhere to strict regulations designed to ensure the safety of agricultural workers. The standards require employers to:

- provide written or oral information to agricultural workers stating the type of pesticides used on the crops being harvested;
- provide personal protective equipment designed to protect the body from contact with pesticides to each farm worker;
- restrict reentry of the workers into fields after pesticides have been sprayed and advise each worker about the spraying; and
- provide facilities for the farm workers near to where they work where they can wash their hands to clean them of pesticide residue and for emergency rinsing of the eyes and mouth.

The WPS also prohibit employers from exposing farm workers to pesticides through direct spraying or drift away pesticide spray from airplanes or tractors.

There are two main offices within the federal EPA responsible for pesticide-related issues. The Office of Pesticide Programs was established to protect the public health and the environment from the risks posed by pesticides, to promote safer means of pest control, and to ensure that pesticides are fairly and efficiently regulated. The Office of Enforcement and Compliance Assurance is responsible for ensuring compliance with federal environmental statutes through regional offices across the country.

The federal Occupational Health and Safety Act of 1970 provides farm workers who work on farms with 11 or more workers with basic field sanitation facilities.

Florida Laws Related to the Use of Pesticides and Farm Workers

Chapter 487, F.S., is the Florida Pesticide Law. The Department of Agriculture and Consumer Services (department) is the primary agency for administering state pesticide laws and regulations. The purpose of Chapter 487, F.S., is to regulate the distribution, sale, and use of pesticides [except as provided in Chapter 388, F.S., (mosquito control) and Chapter 482, F.S., (pest control)] and to protect people and the environment from the adverse effects of pesticides.

Section 487.021(49), F.S., defines “pesticide as “...any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses, bacteria, or fungi on or in living humans or other animals, which the department by rule declares to be a pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant...”

The department, pursuant to Chapter 487, F.S., is required to have persons who apply restricted-use pesticides licensed and certified to use such pesticides. It can issue certified applicator

licenses for public applicators, private applicators, and commercial applicators. In order for a person to be a licensed certified pesticides applicator, they must demonstrate competence by way of a written or oral examination that demonstrates adequate knowledge concerning the proper use and application of restricted-use pesticides. The applicant for a certified applicator's license must demonstrate minimum competence as to:

- the proper use of pesticide application equipment;
- the environmental hazards that may be involved in applying restricted-use pesticides;
- calculating the concentration of restricted-use pesticides to be used in particular circumstances;
- identifying common pests to be controlled and the damage caused by such pests;
- using of protective clothing and respiratory equipment required during the handling and application of restricted-use pesticides;
- precautions to be followed in the disposal of containers, as well as cleaning and decontamination of the equipment used in the application of the pesticides;
- applicable state and federal pesticide laws, rules, and regulations; and
- general safety precautions.

The department is authorized through Chapter 487, F.S., to adopt by rule the primary standards established by the U.S. Environmental Protection Agency with respect to pesticides. Should any federal law preempt any provision in Chapter 487, F.S., any other provision in the chapter shall apply. Chapter 487, F.S., is intended as the comprehensive and exclusive regulation of pesticides in the state [s. 487.051(2), F.S.].

Section 487.0615, F.S., creates within the department the Pesticide Review Council. Its purpose is to advise the Commissioner of Agriculture regarding the sale, use, and registration of pesticides and to advise government agencies with respect to activities related to their responsibilities regarding pesticides. The council is comprised of 11 scientific members from state agencies and state universities and is empowered to do the following:

- Recommend appropriate scientific studies on any registered pesticide when data indicate that the pesticide could pose an unreasonably adverse effect on the environment or human health.
- Recommend actions to be taken by the department with respect to the sale or use of a pesticide which the council has reviewed.
- Provide advice or information to government agencies with respect to activities related to their responsibilities regarding pesticides.
- Review biological and alternative controls to replace or reduce the use of pesticides.
- Consider the development of appropriate advice or recommendations on a pesticide when data indicate that the pesticide could pose an unreasonably adverse effect on the environment or human health.
- Assist the department in the review of registered pesticides which are selected for special review based upon potential environmental or human health effects.

Section 487.1585, F.S., provides for duties of a pesticide licensee supervising unlicensed pesticide applicators and field workers. A licensed pesticide applicator must provide adequate instruction and training on the safety procedures required for applying pesticides. Such training and instruction must include:

- safety procedures to be followed as specified on the label of the pesticide;
- safety clothing and equipment to be worn;
- common symptoms of pesticide poisoning;
- the dangers of eating, drinking, or smoking while handling pesticides; and
- where to obtain medical treatment if needed.

The department has prepared an annual report [*Worker Protection Annual Summary – Annual Report*, October 2001 – September 2002] on the extent to which Florida, through the department's Pesticide Certification Section, has successfully implemented the federal Worker Protection Standards. The section reports that it continues to assist growers, farm workers, extension agents, and various training groups by offering interpretive guidance, compliance assistance, training, and serving as a clearinghouse for outreach materials.

The department's annual report discusses the Radio Novella project which distributed informational materials on the occupational risks of working near pesticides and measures to take to prevent acute and chronic health effects due to exposure risks to 190 migrant health clinics, farm worker health groups and community health centers statewide.

1994 Florida Agricultural Worker Safety Act

The 1994 Legislature created the Florida Agricultural Worker Safety Act [sections 27 and 28, ch. 94-233, L.O.F.]

The Act authorized the Department of Agriculture and Consumer Services (department) to adopt by rule the requirements of the federal Environmental Protection's Labeling Requirement for Pesticides and Devices and the Worker Protection Standards for Agricultural Pesticides. The Act required agricultural employers to provide agricultural workers and others with specific written information concerning agricultural pesticides. The Act provided penalties for agricultural employers who violated any provisions of the Act. The Act required the department to monitor agricultural workers' complaints of retaliation from employers for raising issues related to the Act and to submit a report to the Legislature on such complaints.

The Act made it unlawful for any agricultural employer to fail to provide agricultural pesticide information as required in the Act or to take any retaliatory action against any worker for exercising any right under the federal Worker Protection Standard.

The Act required the department to produce a pesticide safety information sheet for agricultural workers. The Act required, as part of the information provided to farm workers, when pesticides were applied within the previous 30 days and detailed information on health and safety issues. The Act also provided for agricultural workers who had been retaliated against by employers for raising issues related to the Act to seek relief under Florida law.

The Act was repealed effective January 1, 1998, by section 28 of ch. 94-233, L.O.F.

III. Effect of Proposed Changes:

Section 1. Creates s. 487.2011, F.S., to create the “Florida Agricultural Worker Safety Act” and requires the act to be administered by the Department of Agriculture and Consumer Services.

Section 2. Creates s. 487.2021, F.S., to provide legislative intent ensuring agricultural workers are protected from and receive information about pesticides.

Section 3. Creates s. 487.2031, F.S., to provide definitions.

Section 4. Creates s. 487.2041, F.S., to require the Department of Agriculture and Consumer Services to continue to operate under the regulations established by the United States Environmental Protection Agency’s Labeling Requirement for Pesticides and Devices and the Worker Protection Standards.

Section 5. Creates s. 487.2051, F.S., to require agricultural employers to make available to a worker certain information on pesticides. Requires such information to be provided to a worker within 2 working days of a request by a worker, a designated representative of the worker, or medical personnel treating the worker. Directs the department to make available to a trainer a one-page general agricultural pesticide safety sheet designed by the department. Requires the safety sheet to be in a language understood by the worker and to be given to the worker at the time of training.

Section 6. Creates s. 487.2061, F.S., to make it unlawful for an agricultural employer to fail to provide required pesticide information or to take any retaliatory action against any worker exercising his or her rights under the federal Worker Protection Standards.

Section 7. Creates s. 487.2071, F.S., to provide for penalties against agricultural employers who violate the provisions of the act. Requires the Department of Agriculture and Consumer Services to monitor complaints of retaliation against workers and to report such findings to the Legislature on October 1, 2006. Specifies information to be included in the report.

Section 8. Requests the Division of Statutory Revision to designate s. 487.011, F.S., through s. 487.175, F.S., as Part I of the chapter and s. 487.2011, F.S., through s. 487.2071, F.S., as Part II of the chapter. Directs the division to name Part II the “Florida Agricultural Worker Safety Act.”

Section 9. Provides that this act shall take effect on July 1, 2003.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Agricultural employers will be required to furnish general pesticide safety information and a written document that provides technical information about a specific agricultural pesticide to workers. The cost for this is unknown at this time. Additional costs will be incurred for growers, dealers and distributors to provide Material Safety Data Sheets or alternative accepted safety information.

C. Government Sector Impact:

	Fund	FY 2003-04	FY 2004-05	FY 2005-06
OPERATING COSTS:				
Non-Recurring Costs:				
OCO – 6 Standard Professional Packages	GR	9,000	0	0
Application Development for Pesticide Complaints	GR	31,510	0	0
Total Non-Recurring Costs:	GR	\$40,510	0	0
Total Non-Recurring Revenues:		0	0	0
Recurring Costs:				
2 Environmental Specialist III	GR	100,278	100,278	100,278
4 Environmental Specialist II	GR	181,280	181,280	181,280
6 Standard Expense Packages	GR	59,490	41,124	41,124
4 Motor Vehicles	GR	80,000	0	0
Information Technology Maintenance Costs	GR	2,700	2,700	2,700
Total Recurring Costs by Fund:	GR	\$424,198	\$314,198	\$314,198
Total Recurring Revenues:		0	0	0

TOTAL COSTS:	GR	\$464,708	\$374,198	\$374,198
TOTAL REVENUES:		0	0	0

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
